

SENATE BILL No. 431

DIGEST OF INTRODUCED BILL

Citations Affected: IC 35-42-2-1; IC 35-42-2-2.

Synopsis: Violence witnessed by children. Raises the penalty for battery from a Class A misdemeanor to a Class D felony if the offense is witnessed by: (1) a minor child or stepchild; or (2) a minor child residing within the household of the victim or of the person who commits the offense. Raises the penalty for criminal recklessness from a Class B misdemeanor to a Class D felony if the offense is witnessed by: (1) a minor child or stepchild; or (2) a minor child residing within the household of the victim or of the person who commits the offense.

Effective: July 1, 1999.

Zakas

January 13, 1999, read first time and referred to Committee on Corrections, Criminal and Civil Procedures.



C
o
p
y

First Regular Session 111th General Assembly (1999)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 1998 General Assembly.

SENATE BILL No. 431

A BILL FOR AN ACT to amend the Indiana Code concerning criminal law and procedure.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 35-42-2-1 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 1. (a) A person who
3 knowingly or intentionally touches another person in a rude, insolent,
4 or angry manner commits battery, a Class B misdemeanor. However,
5 the offense is:
6 (1) a Class A misdemeanor if:
7 (A) it results in bodily injury to any other person;
8 (B) it is committed against a law enforcement officer or
9 against a person summoned and directed by the officer while
10 the officer is engaged in the execution of his official duty; or
11 (C) it is committed against an employee of a penal facility or
12 a juvenile detention facility (as defined in IC 31-9-2-71) while
13 the employee is engaged in the execution of the employee's
14 official duty;
15 (2) a Class D felony if it results in bodily injury to:
16 (A) a law enforcement officer or a person summoned and
17 directed by a law enforcement officer while the officer is



engaged in the execution of his official duty;

(B) a person less than fourteen (14) years of age and is committed by a person at least eighteen (18) years of age;

(C) a person of any age who is mentally or physically disabled and is committed by a person having the care of the mentally or physically disabled person, whether the care is assumed voluntarily or because of a legal obligation;

(D) the other person and the person who commits the battery was previously convicted of a battery in which the victim was the other person;

(E) the other person and the person who commits the battery which was related to domestic violence (as defined in IC 31-9-2-42) was previously convicted of a battery which was related to domestic violence;

(F) an endangered adult (as defined by IC 35-46-1-1);

(G) an employee of the department of correction while the employee is engaged in the execution of the employee's official duty;

(H) an employee of a school corporation while the employee is engaged in the execution of the employee's official duty and the employee is:

(i) on school property;

(ii) within one thousand (1,000) feet of school property; or

(iii) on a school bus;

(I) a correctional professional while the correctional professional is engaged in the execution of the correctional professional's official duty;

(J) a person who is a health care provider (as defined in IC 16-18-2-163) while the health care provider is engaged in the execution of the health care provider's official duty; **or**

(K) an employee of a penal facility or a juvenile detention facility (as defined in IC 31-9-2-71) while the employee is engaged in the execution of the employee's official duty; **or**

(L) the other person and is witnessed by:

(i) a minor child or stepchild; or

(ii) a minor child residing within the household;

of the other person or of the person who commits the offense;

(3) a Class C felony if it results in serious bodily injury to any other person or if it is committed by means of a deadly weapon; and

(4) a Class B felony if it results in serious bodily injury to a

C
o
p
y



person less than fourteen (14) years of age and is committed by a person at least eighteen (18) years of age.

(b) For purposes of this section:

(1) "law enforcement officer" includes an alcoholic beverage enforcement officer; and

(2) "correctional professional" means a:

(A) probation officer;

(B) parole officer;

(C) community corrections worker; or

(D) home detention officer.

SECTION 2. IC 35-42-2-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 2. (a) As used in this section, "hazing" means forcing or requiring another person:

(1) with or without the consent of the other person; and

(2) as a condition of association with a group or organization; to perform an act that creates a substantial risk of bodily injury.

(b) A person who recklessly, knowingly, or intentionally performs:

(1) an act that creates a substantial risk of bodily injury to another person; or

(2) hazing;

commits criminal recklessness, a Class B misdemeanor. However, the offense is a:

(1) Class A misdemeanor if the conduct includes the use of a vehicle;

(2) Class D felony if it is:

(A) committed while armed with a deadly weapon; or

(B) witnessed by:

(i) a minor child or stepchild; or

(ii) a minor child residing within the household;

of the victim or of the person who commits the offense or of the victim; and

(3) Class C felony if it is committed by shooting a firearm from a vehicle into an inhabited dwelling or other building or place where people are likely to gather.

(c) A person who recklessly, knowingly, or intentionally:

(1) inflicts serious bodily injury on another person; or

(2) performs hazing that results in serious bodily injury to a person;

commits criminal recklessness, a Class D felony. However, the offense is a Class C felony if committed by means of a deadly weapon.

(d) A person, other than a person who has committed an offense under this section or a delinquent act that would be an offense under



- 1 this section if the violator was an adult, who:
- 2 (1) makes a report of hazing in good faith;
- 3 (2) participates in good faith in a judicial proceeding resulting
- 4 from a report of hazing;
- 5 (3) employs a reporting or participating person described in
- 6 subdivision (1) or (2); or
- 7 (4) supervises a reporting or participating person described in
- 8 subdivision (1) or (2);
- 9 is not liable for civil damages or criminal penalties that might
- 10 otherwise be imposed because of the report or participation.
- 11 (e) A person described in subsection (d)(1) or (d)(2) is presumed to
- 12 act in good faith.
- 13 (f) A person described in subsection (d)(1) or (d)(2) may not be
- 14 treated as acting in bad faith solely because the person did not have
- 15 probable cause to believe that a person committed:
- 16 (1) an offense under this section; or
- 17 (2) a delinquent act that would be an offense under this section if
- 18 the offender was an adult.

C
o
p
y